

SENATE BILL NO. 377

INTRODUCED BY WHEAT

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "MUNICIPAL" FOR THE PURPOSES OF BASINS CLOSED TO NEW APPROPRIATIONS; AMENDING SECTIONS 85-2-329, 85-2-340, 85-2-342, AND 85-2-344, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-329, MCA, is amended to read:

"85-2-329. Definitions. Unless the context requires otherwise, in 85-2-330 and this section, the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a state water reservation pursuant to 85-2-316.

(2) "Ground water" means water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not immediately or directly connected to surface water.

(3) "Municipal" means:

(A) a use of water by and under a public water supply system as defined in 75-6-102; AND

(B) THE USE OF WATER BY A COUNTY, CITY, TOWN, SCHOOL DISTRICT, OR COUNTY WATER OR SEWER DISTRICT THROUGH AN INTEGRATED SYSTEM OR A COMMON PLAN TO PROVIDE THE WATER AND THE WATER REQUIREMENTS OF A PARTICULAR SERVICE AREA.

~~(3)~~(4) "Nonconsumptive use" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in stream conditions.

~~(4)~~(5) "Teton River basin" means the drainage area of the Teton River and its tributaries above the confluence of the Teton and Marias Rivers."

Section 2. Section 85-2-340, MCA, is amended to read:

"85-2-340. Definitions. Unless the context requires otherwise, in 85-2-341 and this section, the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a state water reservation pursuant to 85-2-316.

(2) "Ground water" means water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not immediately or directly connected to surface water.

(3) "Jefferson River basin" means the drainage area of the Jefferson River and its tributaries above the confluence of the Jefferson and Missouri Rivers.

(4) "Madison River basin" means the drainage area of the Madison River and its tributaries above the confluence of the Madison and Jefferson Rivers.

(5) "Municipal" means:

(A) a use of water by and under a public water supply system as defined in 75-6-102; AND

(B) THE USE OF WATER BY A COUNTY, CITY, TOWN, SCHOOL DISTRICT, OR COUNTY WATER OR SEWER DISTRICT THROUGH AN INTEGRATED SYSTEM OR A COMMON PLAN TO PROVIDE THE WATER AND THE WATER REQUIREMENTS OF A PARTICULAR SERVICE AREA.

~~(5)~~(6) "Nonconsumptive use" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in stream conditions."

Section 3. Section 85-2-342, MCA, is amended to read:

"85-2-342. Definitions. Unless the context requires otherwise, in 85-2-343 and this section, the following definitions apply:

(1) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a state water reservation pursuant to 85-2-316.

(2) "Ground water" means water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not immediately or directly connected to surface water.

(3) "Municipal" means:

(A) a use of water by and under a public water supply system as defined in 75-6-102; AND

(B) THE USE OF WATER BY A COUNTY, CITY, TOWN, SCHOOL DISTRICT, OR COUNTY WATER OR SEWER DISTRICT THROUGH AN INTEGRATED SYSTEM OR A COMMON PLAN TO PROVIDE THE WATER AND THE WATER REQUIREMENTS OF A PARTICULAR SERVICE AREA.

~~(3)~~(4) "Nonconsumptive use" means a beneficial use of water that does not cause a reduction in the

1 source of supply and in which substantially all of the water returns without delay to the source of supply, causing
2 little or no disruption in stream conditions.

3 ~~(4)~~(5) "Upper Missouri River basin" means the drainage area of the Missouri River and its tributaries
4 above Morony dam."

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6 **Section 4.** Section 85-2-344, MCA, is amended to read:

7 **"85-2-344. Bitterroot River subbasin temporary closure -- definitions -- exceptions.** (1) Unless the
8 context requires otherwise, in this section, the following definitions apply:

9 (a) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a state
10 water reservation pursuant to 85-2-316.

11 (b) "Bitterroot River basin" means the drainage area of the Bitterroot River and its tributaries above the
12 confluence of the Bitterroot River and Clark Fork of the Columbia River and designated as "Basin 76H".

13 (c) "Bitterroot River subbasin" means one of the following hydrologically related portions of the Bitterroot
14 River basin:

15 (i) the mainstem subbasin, designated as "Subbasin 76HA";

16 (ii) the north end subbasin, designated as "Subbasin 76HB";

17 (iii) the east side subbasin, designated as "Subbasin 76HC";

18 (iv) the southeast subbasin, designated as "Subbasin 76HD";

19 (v) the south end subbasin, designated as "Subbasin 76HE";

20 (vi) the southwest subbasin, designated as "Subbasin 76HF";

21 (vii) the west central subbasin, designated as "Subbasin 76HG"; or

22 (viii) the northwest subbasin, designated as "Subbasin 76HH".

23 (d) "Municipal water supply" means:

24 (i) a use of water by and under a public water supply system as defined in 75-6-102; AND

25 (ii) THE USE OF WATER BY A COUNTY, CITY, TOWN, SCHOOL DISTRICT, OR COUNTY WATER OR SEWER DISTRICT
26 THROUGH AN INTEGRATED SYSTEM OR A COMMON PLAN TO PROVIDE THE WATER AND THE WATER REQUIREMENTS OF A
27 PARTICULAR SERVICE AREA.

28 (2) As provided in 85-2-319, the department may not process or grant an application for a permit to
29 appropriate water or for a state water reservation within a Bitterroot River subbasin until the closure for the basin
30 is terminated pursuant to subsection (3) of this section, except for:

- 1 (a) an application for a permit to appropriate ground water;
2 (b) an application for a permit to appropriate water for a municipal water supply;
3 (c) temporary emergency appropriations pursuant to 85-2-113(3); or
4 (d) an application to store water during high spring flow in an impoundment with a capacity of 50 acre
5 feet or more.

6 (3) Each Bitterroot River subbasin is closed to new appropriations and new state water reservations until
7 2 years after all water rights in the subbasin arising under the laws of the state are subject to an enforceable and
8 administrable decree as provided in 85-2-406(4)."

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10 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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12 NEW SECTION. **Section 6. Applicability.** [This act] applies to water right permit applications pending
13 or initiated after [the effective date of this act].

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